



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Embassy of Switzerland in the United States of America

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

AUG 14 2008

at 10 o'clock and 25 min. A.M.
SUE BEITIA, CLERK

Fax

Date: 13.08.2008
Fax number: 808 541-3579
Recipient: The Honorable
Helen Gillmor
United States District Court
District of Hawaii
300 Ala Moana Blvd., Rm. C338
Honolulu, Hawaii 96850

Number of pages:

2

CV 08-00136 HG

Your reference: Your reference: 454.0-FGH/SEV

Dear Sir or Madam:

Enclosed you find the letter to the Honorable Judge Gillmor.

Sincerely,

V. Studer
Viviana Studer

2900 Cathedral Ave. NW
Washington, D.C. 20008-3499
Phone: (202) 745 7900, Fax: (202) 387 2564
was.vertretung@eda.admin.ch, www.swissemb.org



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Embassy of Switzerland in the United States of
America

The Honorable
Helen Gillmor
United States District Court
District of Hawaii
300 Ala Moana Blvd., Rm. C338
Honolulu, Hawaii 96850

Your reference: 454.0-FCH/SEV

Washington, D.C., August 13, 2008

Dear Judge Gillmor:

I refer to the attempted service of a civil matter (case number: 08-00136HG) on the European Organization for Nuclear Research (CERN) in Geneva.

In this case, the court documents in the English language were delivered to CERN by Mr. Marco Breitenmoser, a Geneva-based bailiff. CERN justifiably disputes the method of the delivery since the bailiff deposited the court documents against CERN's will although CERN had already pointed out that the delivery and therefore also the service were inadmissible.

In fact, the delivery of official court documents to an intergovernmental organization through a bailiff, an attorney or the court itself violates international law and, in particular, the Agreement between Switzerland and the European Organization for Nuclear Research Concerning the Legal Status of the European Organization for Nuclear Research in Switzerland, which sets down the inviolability of the buildings of the Organization and the immunity from legal process.

According to the Swiss legal interpretation, the service of court documents from Swiss and foreign authorities on an intergovernmental organization with headquarters in Switzerland with which Switzerland has concluded a headquarters agreement must be done by diplomatic channels. Since CERN is such an intergovernmental organization with a special status with certain inviolable rights, the court documents to be served must be delivered by the United States Embassy in Bern to the Swiss Federal Department of Foreign Affairs (FDFA), which would carry out the service on CERN via our Mission in Geneva.

Therefore the documents were not delivered properly and thus their service was not executed. I request that the service of the court documents concerned on CERN be done validly through the diplomatic channels described above.

Sincerely,

The Chargé d'Affaires a.i. of Switzerland


Alexander Wittwer

2900 Cathedral Ave. NW
Washington, D.C. 20008-3499
Phone: (202) 745 7900, Fax: (202) 367 2564
was.vertretung@eda.admin.ch, www.swissemb.org